IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2000 of 2000

to

FIRST APPEALNo 2040 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA
and
Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SPECIAL LAND ACQUISITION OFFICER

Versus

KHODABHAI DABHAI

Appearance:
Mr.Umesh Trivedi, learned A.G.P.for the appellant No.1
Ms.Sejal Mandavia for appellant No.2
Mr.K.M.Sheth for the respondents

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE J.R.VORA

Date of decision: 07/02/2001

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

Admit. Issue Notice. Mr. K.M.Sheth appearing for the respondents claimants, accepts the notice and waives the service. On the request of both the sides the matters were taken up for final disposal right today.

This group of 41 First Appeals is directed against the judgment and order dated 10.12.99 passed by the 3rd Joint Civil Judge (S.D.), Vadodara in Land Reference Cases Nos.484 to 524 of 1991.

The lands of the claimants of village Sarnej,Taluka Waghodia, District - Vadodara were sought to be acquired for the construction of Narmada Canal. For that purpose Notification under Sec.4 was issued on 24.12.85 and the Notification under Sec.6 of the Land Acquisition Act was issued on 20.2.87. The Land Acquisition Officer passed the Award on 5.10.87 determining the rate of compensation to be paid at Rs.1.15 Ps. per Sq.Mt. The claimants' demand was for Rs.20/-- per sq.mt. The matter was taken in Reference under Sec.18 and the Reference Court has decided Reference Cases Nos.484 to 524 of 1991 vide its judgment and order dated 10.12.99. The Reference Court has held that the claimants are entitled to get Rs.13/-- per sq.mt. as excess compensation from the Land Acquisition Officer.The claimants have also been held to be entitled to get 10% interest per annum as per Sec.23(2) and 12% interest per annum from the date of notification under Sec.4 published on 24.12.85 and notification under Sec.6 as was published on 20.2.87 and from the date of the award i.e. 5.10.87 for 8 months they are entitled to get special compensation. The claimants have also been held to be entitled to get interest at the rate of 30% as solatium as per Sec.23(a), 23(1) and 23(2).The Reference Court has further ordered that if the acquired land is new tenure type, then 5% deduction will be permitted to the Government and the claimants have been held to be entitled to get 9% interest from the date of the award till the date of taking over the possession by the Special Land Acquisition Officer for the first year and after that claimants are entitled for 15% interest for the rest of the years.

Mr.Umesh Trivedi, learned A.G.P. and Ms. Sejal Mandavia on behalf of the appellants have submitted that the compensation in the instant case could not be more

than Rs.12/-- per sq.mt. and the claimants could not be granted interest of 10% per annum under Sec.23(2). Mr. K.M. Sheth appearing on behalf of the respondents claimants, initially as caveator and thereafter by waiving the service, has submitted that the impugned order may be modified so as to reduce the rate of compensation from Rs.13/-- per sq.mt. to that of Rs.12/-- per sq.mt. and the entitlement of 10% interest per annum under Sec.23(2) may be set aside.

Therefore, as suggested by learned counsel for the appellants and as agreed by the learned counsel for the respondents - claimants, the impugned award is modified accordingly so as to hold the claimants to be entitled to Rs.12/-- per sq.mt. as excess compensation instead of Rs.13/-- per sq.mt. and further that the claimants shall not be entitled to get 10% interest per anum under Sec.23(2). The impugned judgment and order is, therefore, modified in the aforesaid terms. Rest of the order, as passed by the Reference Court under Sec.18, remains intact and the decree be drawn accordingly by reducing the rate from Rs.13/-- per sq.mt. to that of Rs.12/-- per sq.mt. and by setting aside the order with regard to 10% interest per annum under Sec.23(2).

All these Appeals are partly allowed as above with no order as to costs.

In the facts of this case, it is expected that the appellants shall deposit the due amount in terms of this order i.e. the impugned order as it stands modified in the terms of this order, within a period of three months from the date the certified copy of this order is served upon the concerned authorities by either of the parties.

(M.R.Calla,J)

(J.R.Vora,J)